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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/708,863	03/29/2004	Timothy J Beddingfield	GEN-0377	2862

23413 7590 02/20/2009  
CANTOR COLBURN, LLP  
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Hartford, CT 06103

EXAMINER
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STERRETT, JONATHAN G

ART UNIT	PAPER NUMBER
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3623

NOTIFICATION DATE	DELIVERY MODE
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02/20/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

usptopatentmail@cantorcolburn.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/708,863	<b>Applicant(s)</b> BEDDINGFIELD ET AL.	
	<b>Examiner</b> JONATHAN G. STERRETT	<b>Art Unit</b> 3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7-14-04</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Summary*

1. This **Non-Final Rejection** is responsive to 26 April 2005. Currently **Claims 1-20** are pending in the application.

### ***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

**Claims 1-9** are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

**Claims 1** is rejected under 35 U.S.C. 101 based on Supreme Court precedent, and recent Federal Circuit decisions, the Office's guidance to examiners is that a § 101 process must (1) be tied to another statutory class (such as a particular apparatus) or (2) transform underlying subject matter (such as an article or materials) to a different state or thing. *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780,787-88 (1876).

An example of a method claim that would not qualify as a statutory process would be a claim that recited purely mental steps. Thus, to qualify as a § 101 statutory

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process, the claim should positively recite the other statutory class (the thing or product) to which it is tied, for example by identifying the apparatus that accomplishes the method steps, or positively recite the subject matter that is being transformed, for example by identifying the material that is being changed to a different state.

Here, applicant's method steps, fail the first prong of the new Federal Circuit decision since they are not tied to another statutory class and can be performed without the use of a particular apparatus. Thus, **Claim 1** is non-statutory. **Claims 2-9** depend on **Claim 1** and are similarly not statutory.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 1-4, 10-13 and 18-20** are rejected under 35 U.S.C. 103(a) as being unpatentable over “Bringing the Balanced Scorecard to Life: The Microsoft Balanced Scorecard Framework” C Bloomfield, Insightformation - Insight formation Inc. May, 2002 - club.amteam.org, (hereinafter **Bloomfield**)

Regarding **Claim 1**, Bloomfield teaches:

**1. A method for providing web-based supplier performance data across a supply chain, comprising:**

**gathering customer data and supplier data and storing said customer data and supplier data in a data repository;**

page 3 bottom paragraph (inward and outward facing measures)

page 5 bottom – top of page 6 – different outward and inward metrics are discussed

see also Figure 2 page 9 - various customer and supplier data

page 19 para 5, data is stored in a database (i.e. a data repository).

**receiving a request for supplier performance metrics from a requester, said request for supplier performance metrics including: at least one supplier selection; at least one customer selection; and a report type selection;**

page 21 para 1 and 2; metrics relating to customers and suppliers (since page 1 discussed a supply chain issue) - the adhoc report (Figure 6) shows a report type selection

**retrieving data corresponding to said request from said data repository; processing said data in accordance with said report type selection, said processing resulting in a supplier performance report; and**

Figure 3, the data that is requested according to a personalized portal is retrieved, processed and presented to a requester in accordance with what has been selected for their personalized portal.

**presenting said supplier performance report to said requester over a network.**

Page 16, a personalized portal presents information to a requester (i.e. since the portal is personalized).

Bloomfield teaches on page 12 that it is necessary to automate the gathering of data for the balanced scorecard (i.e. "automation is essential"). Bloomfield notes that this information can come from throughout the supply chain. (see page 16 bottom paragraph – the personalized portal can access transactional systems).

While Bloomfield does not teach where the data comes from parsing purchase orders and shipping receipt data, Bloomfield does teach accessing transactional systems to gather data, and as discussed above, where data is gathered to troubleshoot supply chain issues. Official Notice is taken that it is old and well known in the art to parse PO data from PO's and shipping receipt data from shipping receipts.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Bloomfield to include inputting data that is parsed from PO's and Shipping receipts, because Bloomfield does teach accessing transactional data and it would have provided a predictable result in combination with the teachings of Bloomfield because Bloomfield teaches storing, accessing and reporting on data such that users can understand what is occurring within their company via a personalized portal balanced scorecard.

Regarding **Claim 2**, Bloomfield teaches:

**2. The method of claim 1, wherein said report type is a supplier summary report including: requests data; span data; and weighted averages data.**

Bloomfield teaches a variety of data being presented to a user in a web portal, however Bloomfield does not teach the types of data claimed, however, these differences are only found in the non-functional descriptive material and are not functionally involved in the steps recited nor do they alter the recited structural

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elements. The recited method steps would be performed the same regardless of the specific data. Further, the structural elements remain the same regardless of the specific data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); *MPEP* ' 2106.

Regarding **Claim 3**, Bloomfield teaches:

**3. The method of claim 2, wherein said report type is a combined report including supplier summary report data and: part number details; prior month receipts; past overdue details; and open past due order details.**

Bloomfield teaches a combined report with different types of data (see page 20 Figure 5; page 21 Figure 6 – these are combined reports because they have different types of data combined in them). Bloomfield does not teach the specific data claimed however, these differences are only found in the non-functional descriptive material and are not functionally involved in the steps recited nor do they alter the recited structural elements. The recited method steps would be performed the same regardless of the specific data. Further, the structural elements remain the same regardless of the specific data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217



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*USPQ 401, 404 (Fed. Cir. 1983); In re Lowry, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); MPEP ' 2106.*

Regarding **Claim 4**, Bloomfield teaches:

**4. The method of claim 3, further comprising transmitting said supplier performance metrics via at least one of: computer download; facsimile; and email.**

Page 16 bottom para, since the portal is implemented using “web technologies”, this implies that the metrics are transmitted via computer download.

**Claims 10-13 and 18** recite similar limitations to those addressed by the rejection of **claims 1-4** above, and are rejected under the same rationale.

Furthermore regarding **Claims 10-13 and 18**, Bloomfield teaches computer software and hardware for performing the method (see page 15 para 2).

Regarding **Claims 19 and 20** Bloomfield teaches links in the web portal to other systems (page 18 bottom para graph)

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5. **Claims 5-7 and 9** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Bloomfield** in view of “Supply Chain Management: A Recommended Performance Measurement Scorecard”, LS Klapper et al., 1999, Logistics Management Institute (hereinafter **LMI**).

Regarding **Claim 5**, Bloomfield does not teach, but LMI teaches:

**5. The method of claim 2, wherein said requests data include:**

**requests met hits;**

**requests met misses;**

**requests met percentages indicating a percentage of deliveries performed by a supplier that met a requested delivery date;**

**and count of receipts indicating a number of shipments received from a supplier during a requested time period for a requested level of aggregation; wherein said request met percentages is calculated by dividing said requests met hits for said supplier by said count of receipts for said supplier by said request met hits.**

page A10, delivery performance to customer request date (i.e. is a percentage). Since this is a percentage, it includes a count of requests that have been met (i.e. hits) and a count of requests that have not been met (i.e. misses). Since LMI is discussing supply chain performance metrics (i.e. suppliers) this suggests counting receipts for a supplier to determine the hits and misses to determine the delivery performance to customer request date percentage). See also page A2, S1 Source stocked material.

Bloomfield addressed the strategic management of detailed metrics that link hierarchically to a strategy for a company. This metrics are customized and detailed for the individual responsible, such that a person lower in the hierarchy of an organization may be presented with details that link to the higher strategy.

LMI teaches the use of the SCOR model which is a hierarchical model for managing the supply chain at various levels of detail. LMI teaches that supply chain management is a strategic part of business management.

Thus Bloomfield and LMI are analogous arts regarding providing strategic management to users regarding what is happening in their company.

It would have been obvious to one of ordinary skill in the art to modify the web portal that shows a scorecard as taught by Bloomfield to include the step of tracking supply chain data as taught by LMI, because it would have provided a predictable result in tracking supply chain data using a scorecard on a web portal.

Regarding **Claim 6**, Bloomfield does not teach but LMI teaches:

**6. The method of claim 2, wherein said span data measures a difference in days between customer requested delivery date and an actual delivery date for an order within a specified period of time,**

page 4-5, Order Fulfillment Lead Time is the time from when the customer requests an item to actual delivery

page 5-6, performance to customer request date suggests a span data measuring a difference between the date a customer requested date and an actual delivery date. See also page 5-8

**said span data including: lower boundary days; median days; upper boundary days; and span days.**

LMI teaches a variety of days (i.e. lead times) in measuring supply chain response: LMI does not teach the particular data claimed, however, these differences are only found in the non-functional descriptive material and are not functionally involved in the steps recited nor do they alter the recited structural elements. The recited method steps would be performed the same regardless of the specific data. Further, the structural elements remain the same regardless of the specific data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); MPEP ' 2106.

Bloomfield addressed the strategic management of detailed metrics that link hierarchically to a strategy for a company. This metrics are customized and detailed for

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the individual responsible, such that a person lower in the hierarchy of an organization may be presented with details that link to the higher strategy.

LMI teaches the use of the SCOR model which is a hierarchical model for managing the supply chain at various levels of detail. LMI teaches that supply chain management is a strategic part of business management.

Thus Bloomfield and LMI are analogous arts regarding providing strategic management to users regarding what is happening in their company.

It would have been obvious to one of ordinary skill in the art to modify the web portal that shows a scorecard as taught by Bloomfield to include the step of tracking supply chain data as taught by LMI, because it would have provided a predictable result in tracking supply chain data using a scorecard on a web portal.

Regarding **Claim 7**, Bloomfield does not teach but LMI teaches:

**7. The method of claim 2, wherein said weighted averages data includes requests data indicating a difference in days between an order date and a requested delivery date.**

Page 2-1 logistics response time. – a difference in days between an order date and a requested delivery date (i.e. required date).

Regarding **Claim 9**, Bloomfield teaches:

**9. The method of claim 2, wherein said supplier summary report presents supplier performance metrics for time periods including: a prior month period; a prior three-month period; and a prior twelve-month period.**

Page 21 Figure 6 – the pivot table shows a variety of time periods for displaying data. (The examiner notes that a prior month, a prior three month and a prior twelve month period describing time periods being displayed are nonfunctional data labels).

**Claims 14-16** recite similar limitations to those addressed by the rejection of **Claims 5-7 and 9** above, and are rejected under a similar rationale.

6. **Claims 8 and 17** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Bloomfield** in view of **LMI** and further in view of Herbert **Jodlbauer**, “Definition and properties of the input-weighted average lead-time” Received 20 January 2003; accepted 28 April 2003. Available online 26 February 2004. Elsevier B.V. (hereinafter **Jodlbauer**)

Regarding **Claims 8 and 17**, Bloomfield teaches tracking transactional costs as from an ERP system. Bloomfield does not teach calculating a weighted average lead time:

LMI teaches measuring many aspects of what is in a supply chain. The examiner notes that LMI bases their metrics heavily on the SCOR (Supply Chain Operation Reference) Model. LMI teaches tracking material receipts (see page A4 item S12 - receive and verify material). LMI teaches lead times for various aspects of the supply chain - see for example page A10-- "Cumulative source and make cycle time" is a lead time"; and page A14 - "Order fulfillment lead time" is a total lead time for products.

LMI also suggests tracking detailed information regarding invoicing and part numbers (see page A11 "Faultless Invoices" - note the items tracked include price and quantity) - this suggests that LMI teaches tracking invoicing information for various products (i.e. including parts) that includes how much it cost and how many (i.e. quantity and unit cost).

LMI suggests dividing metrics to develop meaningful ways to measure what is happening in a supply chain. For example at the bottom of page A15, "Plant finished goods inventory DOS" (DOS Days Of Supply) is measure by dividing Gross Plant finished goods inventory by the average daily value of transfers.

While LMI suggests tracking and measuring a very broad array of supply chain metrics in great detail, LMI fails to teach calculating a weighted average leadtime.

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Official Notice is taken that it is old and well known in the art for a purchase order to contain a total cost for an item which is calculated by multiplying a unit cost by a unit quantity to result in a total cost for that item

However this concept is taught by Jodlbauer.

Jodlbauer teaches on page 356 column 1 para 1, the idea of a weighted average lead time. Here it is taught that “the contribution of an item to the average leadtime “L” depends not only on its leadtime, but also on its input value, thus products that have a large input have a greater influence on the average leadtime”. This suggests multiplying a cost (i.e. a unit price times a quantity) times a leadtime and dividing by the unit price times a quantity, as per:

**wherein said weighted averages data further includes a weighted average lead time calculated by dividing a sum of extended lead times by a sum of extended costs;**

See Jodlbauer equation 7 on page 356 – weighted average leadtime L is calculated by dividing a sum of extended lead times (integral of  $l(t)$  times  $x(t)$ ) by a sum of extended costs ( $x(t)$ ).

**wherein said extended lead times are determined by multiplying a unit cost times a unit quantity by a standard lead time in days for a specified purchase order item;**

While JodlBauer teaches the input value of an item, he does not explicitly teach it is a unit cost times a unit quantity – however this is taken as Official Notice as per



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above - Jodlbauer does teach multiplying the value times a leadtime (i.e. a standard leadtime).

**and wherein further, said extended costs are determined by multiplying a unit cost by a unit quantity for said specified purchase order item.**

.Again Jodlbauer teaches input value but not multiplying a unit cost by a unit quantity, however this is taken as old and well known by Official Notice.

Bloomfield addressed the strategic management of detailed metrics that link hierarchically to a strategy for a company. This metrics are customized and detailed for the individual responsible, such that a person lower in the hierarchy of an organization may be presented with details that link to the higher strategy.

LMI teaches the use of the SCOR model which is a hierarchical model for managing the supply chain at various levels of detail. LMI teaches that supply chain management is a strategic part of business management.

Thus Bloomfield and LMI are analogous arts regarding providing strategic management to users regarding what is happening in their company.

Jodlbauer teaches the measurement of a particular supply chain aspect, ie the measurement of a weighted average lead time.

Thus Bloomfield, LMI and Jodlbauer are analogous arts because they all address how one of ordinary skill in the art can make better decisions regarding management.

One of ordinary skill in the art at the time of the invention would have modified the collective teachings of Bloomfield and LMI regarding providing a web portal that provides users with a way to monitor and understand the supply chain aspects of their company to include the teachings of Jodlbauer, regarding using a weighted average approach to measuring lead time because it would have provided a way to understand the effect that products have on leadtime by virtue of their dollar weighted impact. Additionally the combination of these teachings would have provided a predictable result by providing a user with a supply chain report on a webportal that shows weighted average leadtime for a given product or purchase order in the supply chain. The combination of these teachings does not destroy the functionality of any of the individual elements but rather would have been seen as advantageous to one of ordinary skill in the art because it would have improved managerial decision-making ability regarding the supply chain.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Lapide, Larry; "What About Measuring Supply Chain Performance?" (4/15/2000) Asct  
Volume 2, Massachusetts Institute of Technology,

K. L. Choy, , a, W. B. Leea and Victor Lob

"An intelligent supplier management tool for benchmarking suppliers in outsource  
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Volume 22, Issue 3, April 2002, Pages 213-224

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Measuring supply chain performance - ► [reedsresearch.com](http://reedsresearch.com) [PDF]

BM Beamon - INTERNATIONAL JOURNAL OF OPERATIONS AND PRODUCTION ...,  
1999 - [emeraldinsight.com](http://emeraldinsight.com)

Logistics Performance Measurement and Customer Success

Stanley E. Fawcett and M. Bixby Cooper

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Volume 27, Issue 4, July 1998, Pages 341-357

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JPC Kleijnen, MT Smits - Journal of the Operational Research Society, 2003 - [palgrave-journals.com](http://palgrave-journals.com)

The Collaborative Supply Chain

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MANAGEMENT, 2002 - logmgt.nkmu.edu.tw

Enabling Technologies for Supply Chain Process Management

R Holten, A Dreiling, M zur Muehlen, J Becker - Information Resource Management  
Association International ..., 2002 - process-warehouse.de

Periodic review, push inventory policies for remanufacturing

B. Mahadevan, David F. Pyke, , b and Moritz Fleischmann,  
European Journal of Operational Research  
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Evans, James R; Jack, Eric P; "Validating Key Results Linkages in the Baldrige  
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Lederer, Phillip J; Rhee, Seung-Kyu; "Lead Time Performance Management in a Cost  
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Spearman, Mark L; Zhang, Rachel Q. "Optimal Lead Time Policies", Feb 1999, Management Science, Vol. 45, No. 2, pp.290-295.

Wiendahl, HP; Dombrowski, U; "Manufacturing Routine Analysis for the Quantitative Comparison of Conventional and Flexible Manufacturing", 1987, The International Journal of Advanced Manufacturing Technology, 2 (4) 41-62.

US Department of Defense, "Secondary Item Stratification Manual", June 1995, DoD 4140.1-M, Office of the Undersecretary of Defense for Acquisition and Technology, 121 pages.

US 7054702 by Barto teaches a lot sizing approach for minimizing bottlenecks in a manufacturing facility.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan G. Sterrett whose telephone number is 571-272-6881. The examiner can normally be reached on 8-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Beth Boswell can be reached on 571-272-6737. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JGS 1-30-09

/Jonathan G. Sterrett/

Primary Examiner, Art Unit 3623